

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6377

BILL NUMBER: SB 79

NOTE PREPARED: Nov 26, 2007

BILL AMENDED:

SUBJECT: Sexual Predators and Networking Sites.

FIRST AUTHOR: Sen. Waltz

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill makes it a Class A misdemeanor for an offender against children to use a social networking program frequented by children or an instant messaging or chat room program. It increases the penalty to a Class D felony if the offender against children uses the program to contact a child or has a prior conviction under this statute.

Effective Date: July 1, 2008.

Explanation of State Expenditures: There are no data available to indicate how many offenders against children may be convicted of a sex offender Internet offense, a Class A misdemeanor, or face an enhanced Class D felony for prior convictions.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor, depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$19,185 in FY 2007. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$63,138. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Background: An offender against children is a person who is required to register as a sex offender and who is found to be a sexually violent predator or was convicted of child molesting, child exploitation, child solicitation, child seduction, or kidnapping of a person who is less 18 years old; attempting or conspiracy to commit one of these offenses; or a similar offense in another jurisdiction. In August 2007, there were 4,011

offenders out of 6,336 on the sex offender registry who committed crimes that would qualify them as offenders against children.

Explanation of State Revenues: If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000, and the maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$17), public defense administration fee (\$3), court administration fee (\$3), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Explanation of Local Expenditures: A Class A misdemeanor is punishable by up to one year in jail and defendants may be detained in a county jail prior to their court hearings for Class D felony offenses. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association, Department of Correction.

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